



County of Los Angeles CHIEF EXECUTIVE OFFICE

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February 2, 2012

To: Supervisor Zev Yaroslavsky, Chairman
Supervisor Gloria Molina
Supervisor Mark Ridley-Thomas
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

MOTION TO SUPPORT H.R. 2765 (MILLER), THE SUNSHINE ON CONFLICTS ACT (ITEM NO. 6, AGENDA OF FEBRUARY 7, 2012)

Item No. 6 on the February 7, 2012 Agenda is a motion by Supervisor Knabe to support H.R. 2765 (Miller), the Sunshine on Conflicts Act, and instruct the Chief Executive Office to prepare a five-signature letter to the Los Angeles County Congressional Delegation urging support for this bill; and instruct our Washington D.C. advocates to pursue the enactment of this legislation.

As explained below, approval of this motion to support H.R. 2765 (Miller) is a matter for Board policy determination.

Background

The Federal Clean Water Act (CWA) established the National Pollution Discharge Elimination System (NPDES) to reduce water pollution by requiring all facilities, which discharge pollutants from any point source to waters of the United States, to obtain a permit. In most cases, the NPDES permit system is administered by states, including in California, under supervision of the U.S. Environmental Protection Agency (EPA). Under the CWA, states are required to ensure that any board which approves permits under the NPDES Program shall not include a member "who receives, or during the previous two years received, a significant portion of income directly or indirectly from permit holders or applicants for a permit." Existing EPA regulations define a "significant

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portion" of income to be 10 percent or more of gross personal income for a calendar year. These statutory and regulatory requirements are intended to protect against conflicts of interest in the permitting process.

H.R. 2765 (Miller)

As introduced by Representative Gary Miller (R-CA) on August 1, 2011, H.R. 2765 would amend the CWA to remove the income threshold test and require the EPA to issue rules prohibiting any member of a board which approves permits, from voting upon or seeking to influence any permit in which that member has a direct or indirect financial interest, as defined in applicable state law. The bill was referred to the House Transportation and Infrastructure Committee, which has not yet scheduled any action on it.

H.R. 2765 was introduced because the current income threshold of 10 percent is so low that it has greatly reduced the pool of qualified persons who can serve on state and regional boards which issue water quality permits under the NPDES Program. It protects against potential conflict of interest by barring a board member, from voting on or seeking to influence any permit in which the member has a financial interest rather than preventing any person who meets the 10 percent income threshold, from serving on a board. The bill is supported by a broad coalition of organizations, including the California State Association of Counties, League of California Cities, Metropolitan Water District of Southern California, Association of California Water Agencies, California Association of Sanitation Agencies, California Chamber of Commerce, and National Association of Clean Water Agencies.

The County's Department of Public Works recommends support for H.R. 2765 because it would improve the regulation of water quality at the state and regional level by increasing the pool of qualified candidates who can serve on boards which issue water quality permits. The bill would not have any direct impact on any County operations. There is no existing Board policy relating to the appointment of persons to boards which issue permits under the NPDES Program. **Therefore, approval of this motion to support H.R. 2765 is a matter for your Board's determination.**

We will continue to keep you advised.

WTF:RA
MR:MT:sb

c: Executive Office, Board of Supervisors
County Counsel